

## REMARKS/ARGUMENTS

Responsive to the Office Action mailed December 20, 2005:

### I. PRIOR ART MATTERS

- A. The Office Action rejected claims 10, 19, 20, and 21 under 35 USC 102(e) as being anticipated by Ritz. Applicant respectfully traverses this rejection.

A single prior art reference anticipates a claimed invention only if it discloses each and every claim element.<sup>1</sup>

As to amended claim 10, Ritz does not disclose a plurality of portable identification means identifying the consumer, separate from the server, the workstation, and the sampled portions, the portable identification means being presented to the workstation; and an array containing references to the identifying indicia from the portable identification means received from the workstation and keyed to selected instances of the sampled portions of the stored media content.

In the cited paragraph [15], there is no portable identification means identifying the consumer and separate from the sampled portions. Rather, a product such as a CD is presented to a workstation to obtain sampled portions. A code such as a UPC code located on a CD jewel box is submitted to a service provider that processes the code and returns to the user information indicative of audio tracks recorded on the recorded medium. The code does not identify the consumer, but instead is related to the product from which the sampled portions are obtained. Thus, the portable identification means is separate from the sampled portions. Similarly, when product selection is made from a broadcast, there is no portable identification means identifying the consumer separate from the sampled portions.

In both instances, the array does not contain indicia from the portable identification means received from the workstation, but rather contains indicia related to the product from which the sampled portions are obtained.

Applicant can find no other disclosure in Ritz other than the paragraph cited by the Examiner which contain all of the elements of amended claim 10.

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<sup>1</sup> *Structural Rubber Prod. Co. v. Park Rubber Co.*, 749 F.2d 707, 223 USPQ 1264 (Fed. Cir. 1984)

Claim 10 is therefore allowable. Claim 19 contains elements or limitations in addition to claim 10 and is also allowable.

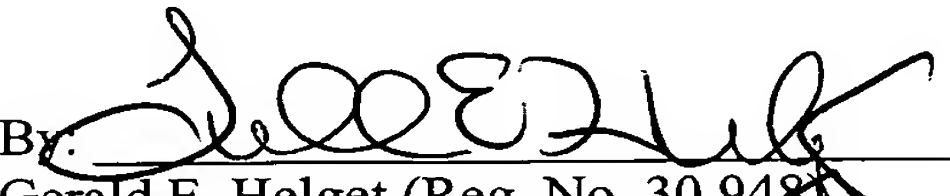
Claim 20 is allowable for the same reasons as to claim 10. The term "identifying indicia" is replaced with "bar code" but all other elements are the same or similar to claim 10.

Claim 21 contains elements or limitations in addition to claim 20 and is also allowable.

For the above reasons, Applicant respectfully requests the allowance of all claims and the issuance of a Notice of Allowance.

Respectfully submitted,

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